

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

DOUGLAS DANZEISEN

Petitioner,

-v-

BRIAN COOK, Warden

Respondent.

Case No. C-3:09-cv-248

Judge Thomas M. Rose
Magistrate Michael R. Merz

**ENTRY AND ORDER OVERRULING DANZEISEN'S OBJECTIONS
(Doc. #4) TO THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #3) IN ITS ENTIRETY;
DISMISSING DANZEISEN'S PETITION FOR A WRIT OF HABEAS
CORPUS WITH PREJUDICE; DENYING LEAVE TO APPEAL *IN
FORMA PAUPERIS*; DENYING ANY REQUESTED CERTIFICATE OF
APPEALABILITY; AND TERMINATING THIS CASE**

This matter comes before the Court pursuant to Petitioner Douglas Danzeisen's ("Danzeisen's") Objections to Magistrate Judge Michael R. Merz's Report and Recommendations. The Report and Recommendations was entered on July 1, 2009. (Doc. #3.) On July 14, 2009, Danzeisen filed objections. (Doc. 4.) The time has run and the Warden has not filed a response. Danzeisen's Objections are, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Danzeisen's Objections to the Magistrate Judge's Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Danzeisen's Petition for a Writ of Habeas Corpus was filed long after the statute of

limitations expired. It is, therefore, dismissed with prejudice. Further, because reasonable jurists would not disagree with this conclusion and appeal would be objectively frivolous, Danzeisen is denied leave to appeal *in forma pauperis* and any requested certificate of appealability.

DONE and **ORDERED** in Dayton, Ohio, this Fifth day of August, 2009.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record